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C O N F I D E N T I A L SARAJEVO 000157

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TAGS: [PREL](#) [PGOV](#) [PINR](#) [KDEM](#) [BK](#)  
SUBJECT: BOSNIA: FEDERATION IGNORES HIGHREP CONCERNS

REF: SARAJEVO 75

Classified By: Ambassador Charles English for reasons 1.4 (b) and (d).

Summary  
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¶1. (C) The Federation entity has refused to address HighRep Inzko's concerns, which he expressed in a letter to the Federation Presidency in December 2009, about the uneven distribution of governing positions. In a separate December letter, the HighRep also reminded Federation President Borjana Kristo of her duty to appoint a new Minister of Spatial Planning. Both Kristo and the Bosniak Party of Democratic Action (SDA) have rejected the HighRep's argument on the distribution of positions. SDA, however, is quietly seeking further guidance from the international community. End summary.

Federation Governing Positions Unevenly Distributed  
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¶2. (SBU) Since the reappointment in June 2009 by the High Judicial and Prosecutorial Council (HJPC) of Amir Jaganjac as President of the Federation Supreme Court, the Federation has not been in compliance with the provision in its Constitution that mandates an equal (2-2-2) distribution across the three constituent peoples of six key governing positions. Bosniaks now hold three of these positions, Croats two, and Serbs one. These six positions include: Speaker of the House of Representatives (currently Safet Softic, Bosniak, SDA), Prime Minister (Mustafa Mujezinovic, Bosniak, SDA), President of the Supreme Court (Amir Jaganjac, Bosniak), Speaker of the House of Peoples (Stjepan Kresic, Croat, Croatian Democratic Union 1990 or HDZ-1990), President of the Constitutional Court (Kata Senjak, Croat), and Federation Prosecutor (Zdravko Knezevic, Serb). (Note: The law requires officials to resign from party posts before they assume positions in the judiciary. Therefore, Knezevic, Senjak and Jaganjac have no official political affiliation. End note.) This is the second time -- the first being in 2003, when the HJPC initially appointed Jaganjac as President of the Federation Supreme Court -- in which the Federation has violated this provision of the Constitution through overrepresentation of Bosniaks. (Note: The Republika Srpska, or RS, has the same constitutional provision and is in compliance. End note.)

HighRep Calls for Compliance with the Constitution  
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¶3. (SBU) HighRep Inzko sent a letter to the Federation Presidency in December asking it to comply with this provision of the Federation Constitution. The letter implied

that the Bosniaks should cede to the Serbs the role of Speaker of the House of Representatives, since replacing the Prime Minister -- the other currently Bosniak position -- would be a much more significant undertaking.

#### Federation Officials Balk

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14. (C) Bosniak officials in the Federation governing structures thus far are refusing to comply with the HighRep's instructions. SDA, the party to which Mujezinovic and Softic belong, contends that the HJPC violated the Federation Constitution by reconfirming Jaganjac. The HJPC, meanwhile, maintains that it does not consider ethnicity when appointing candidates and is not bound to the Federation Constitution. Federation officials are accusing the HighRep of unnecessarily interfering in pre-election politics in the Federation and insist that, in any case, their Serb colleagues are not insisting on the redistribution of positions. President Kristo also rejected the HighRep's instructions, telling him in a letter that "offering a solution (i.e. to remove the Speaker of the House of Representatives) is worrying and opens the door for certain speculations and petty politicking." She added that "the interpretation of provisions of the Federation Constitution according to momentary needs and political circumstances is not a privilege by which to render some constitutional provisions obligatory for some, but not for others."

SDA in Private: "We Will Cooperate If We Have To"

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15. (C) Privately, Softic (SDA) told us that he would resign from his position if the Constitutional and Legislative Affairs Committee (CLAC) in the Federation House of Representatives insisted on it. Also, Irfan Ajanovic -- SDA member and chairman of the CLAC in the Federation House of Representatives -- told us that SDA would seek Softic's resignation if the international community concretely asked for it. Ajanovic also told us that Tihic met with HighRep Inzko in January, and Inzko assured Tihic that his letter was not intended as an attack on SDA but rather as an effort to resolve a constitutional issue. According to Ajanovic, Tihic told the HighRep that SDA would cooperate if he asked for Softic to be replaced but that this would be a costly move for SDA during an election year. Since that meeting, neither side has engaged the other on this issue.

HighRep Also Reprimands Kristo for Neglecting Her Duty

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16. (C) In a separate letter also from December, Inzko asked Federation President Borjana Kristo (HDZ-BiH) to name a Minister of Spatial Planning, a position that has been vacant since summer 2009 and whose vacancy SDA has used to impede the progress of the 5C Corridor (reftel). In his letter, Inzko noted that Kristo has "failed to fulfill her constitutional and legal obligation to appoint (a new Minister of Spatial Planning)." In her response, Kristo contended that she was well aware of her duties and that the Federation Government would deal with all "open issues" in line with the constitution, giving no preferential treatment to one over another.

Comment

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17. (C) As we insist that the RS comply with HighRep decisions and the state Constitution, it is important that the Federation also comply with HighRep instructions, as well as its own Constitution. This is particularly true of issues in which the RS is in compliance with the same provisions in its Constitution, as well as issues that center on ethnic parity in the entity leadership. However, insisting that an elected official leave office could well become a highly controversial issue, especially in the run-up to the general elections scheduled for October.

Comment Cont'd

18. (C) Although not directly a part of the problem with ethnic distribution of positions in the Federation Government, Kristo's refusal to appoint a new Minister of Spatial Planning is yet another example of the dysfunctional Federation Government. Adding insult to injury, BiH was slapped with more than two million euros in penalties in January for its delay in accessing the 5C construction loans from the European Bank for Reconstruction and Development and the European Investment Bank. Embassy is actively engaged on this issue.

ENGLISH